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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

KRAMER, DEAN J

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| ART UNIT | PAPER NUMBER |
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3652

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,289

Applicant(s)

BALDESBERGER, FIDES P.

Examiner

Dean J. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 11-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation of the leg ends being "capable of *reversible* temporary engagement" (emphasis added), in claims 11, 22, 23, and 24, is confusing in that it is unclear how the ends can be reversible.

Further, there is no clear antecedent basis for "said apex area" (claims 14 and 15) or "said first thickness" (claims 17 and 19).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-16 and 22-25, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sergeant in view of Kaufman.

Sergeant shows a pair of tweezers fabricated as an extrusion profile sliced into multiple tweezer mechanisms (see col. 3, lines 19-28). The extruded Sergeant tweezers are not specifically disclosed as being formed from "light metal".

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However, Kaufman shows a one-piece tweezer device that can be formed of various elastic materials such as "spring steel" or "aluminum" (see col. 3, lines 62-66).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the Sergeant tweezers from an elastic light metal, such as spring steel or aluminum, as taught by Kaufman as an alternative yet functionally equivalent means of creating a resilient and durable set of tweezers.

It is pointed out that the apex (2) of Sergeant's tweezers is shown to be at least 20% larger than the thickness of leg portions (12,14). Likewise, bulge portions (12A,14A) are at least 30% greater in size than leg portions (12,14).

Regarding claims 12, 13, 22, and 23, the closing force required to close the resulting modified Sergeant tweezers would vary depending on the exact type of metal used and the thickness of the apex and legs thereof.

4. Claim 22, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over either Seyfriedt or Japanese Patent # 1-257571.

Both Seyfriedt and Japanese Patent # 1-257571 show metal tweezers having a generally enlarged apex region relative to the leg thickness thereof. Neither of these patents specifically discloses the closure pressure required to bring the free ends of the legs to a closed position. However, it would have been obvious to a person having ordinary skill in the art to dimension the apex and form the tweezers out of sufficiently light metal so that it would take at least 150 g. of force to close the tweezers in order for easy manual manipulation thereof.

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5. Claim 23, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Seyfriedt, as set forth above in regard to claim 22, and further in view of British Patent # 2,035,187.

The modified Seyfriedt tweezers were presented supra and would substantially contain all of the structural limitations as broadly as recited in claim 23 except for the legs having enlarged bulge portions along their length.

However, British Patent # 2,035,187 shows a pair of tweezers having a bulge or projection (16a,16b) extending inwardly from each leg so as to limit deformation of the tweezers upon manual compression thereof.

It would have been obvious to one of ordinary skill in the art to provide a bulge on each of the modified Seyfriedt legs similar to that shown in the British ('187) patent in order to limit deformation of the legs upon manual compression.

Allowable Subject Matter

6. Claims 17-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Specification

7. The abstract of the disclosure is objected to because it contains legal phraseology such as "said" in the last line thereof which should be avoided. Correction is required. See MPEP § 608.01(b).

Drawings

8. The drawings are objected to under 37 CFR 1.83(a) because they fail to show Figure 6 as described in the specification. It is pointed out that only one sheet of drawings containing figures 1-5 has been received in this application. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sorensen shows a pair of tweezers formed from aluminum.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

 3-10-03

Dean J. Kramer
Primary Examiner
Art Unit 3652

djk
March 10, 2003